

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION**

<b>STANLEY HAWKINS, INDIVIDUALLY</b>	§	<b>CASE NO. 5:13-cv-00121</b>
<b>AND AS INDEPENDENT EXECUTOR</b>	§	
<b>OF THE ESTATE OF ELIZABETH</b>	§	
<b>PAIGE HAWKINS, DECEASED;</b>	§	
<b>AND LACY PAIGE McKEE,</b>	§	
	§	
<b>Plaintiffs,</b>	§	
	§	
	§	
<b>v.</b>	§	
	§	
<b>NEXION HEALTH MANAGEMENT, INC.;</b>	§	
<b>NEXION HEALTH AT BOGATA, INC.,</b>	§	
<b>d/b/a REGENCY HEALTHCARE AND</b>	§	
<b>REHABILITATION CENTER AT</b>	§	
<b>RED RIVER; NEXION HEALTH</b>	§	
<b>LEASING, INC.; NEXION HEALTH OF</b>	§	
<b>TEXAS, INC.; AND NEXION HEALTH, INC.,</b>	§	
	§	
<b>Defendants.</b>	§	

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**PLAINTIFFS' MOTION FOR LEAVE TO AMEND**

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COME NOW Stanley Hawkins, Individually and as Independent Executor of the Estate of Elizabeth Paige Hawkins, Deceased, and Lacy Paige McKee, Plaintiffs, and file this their Motion for Leave to Amend and for cause would show:

1.1 The undersigned counsel for Plaintiffs requests leave of this Court for the filing of Plaintiffs' Second Amended Original Complaint as the refinement of allegations adds matters beyond the Court's Order extending the deadline to amend pleadings without leave.

1.2 In further support, Plaintiffs would show that no surprise or harm is suffered by Defendants by the Court granting leave to file the Second Amended Complaint because Plaintiffs have been unable to start discovery by oral deposition.

1.3 The delay of Defendants in providing documentary discovery to the Plaintiffs has delayed oral depositions in this case. There has been one Motion to Compel Discovery and Order of the Court [Dkt. #45]. There is a Second Motion to Compel pending [Dkt. #47] as well as Defendants withholding of documents pending their claims of privilege [Dkt. #48]. Further, counsel for Defendants has advised counsel for Plaintiffs that he is unavailable, as well as anyone else in his firm, for depositions in this case until the week of August 18 and 25.

1.4 Therefore, Plaintiffs would respectfully request that the Court grant leave authorizing the previous filing of the Plaintiffs' Second Amended Complaint.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that upon hearing this Motion for Leave to Amend that the Court grant the request as stated above.

Respectfully submitted,

**SMITH WEBER, L.L.P.**  
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By: /s/ J. Michael Smith  
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ATTORNEYS FOR PLAINTIFF

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of this document was electronically filed with the Clerk of the Court using the CM/ECF system on this 16<sup>th</sup> day of July, 2014, which will send notification of such filing to the following parties:

Gregory N. Ziegler  
Jason A. Burris  
MacDonald Devin, P.C.  
3800 Renaissance Tower  
1201 Elm Street  
Dallas, TX 75270

/s/ J. Michael Smith  
J. Michael Smith

### **CERTIFICATE OF CONFERENCE**

I certify that a reasonable effort was made to resolve the dispute without the necessity of court intervention, and the effort failed.

I conferred with Jason Burris on July 16, 2014, and have attempted in good faith to reach an agreement about the Second Amended Original Complaint without the necessity of court intervention. We were unable to reach an agreement.

Dated: July 16, 2014

/s/ J. Michael Smith  
J. Michael Smith